

Report on the Implementation of the
FY 1987 National Defense Authorization Act
Section 1207, Contract Goal
for Minorities

Fiscal Year 1988

Prepared by: Office of the Under
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Disadvantaged Business
Utilization

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EXECUTIVE SUMMARY

This report covers the progress during fiscal year (FY) 1988 of the Department of Defense (DoD) towards the achievement of the five percent goal for awards to small disadvantaged businesses (SDB), historically Black colleges and universities (HBCU) and other minority institutions (MI) mandated by section 1207 of P.L. 99-661. P.L. 99-661 establishes as an objective for the DoD a five percent goal for contracts and subcontracts entered into with these entities. According to the law, the five percent goal applies to the combined total of the amounts obligated for contracts in the areas of procurement, research and development, test and evaluation, military construction, and operations and maintenance. The data provided in this report covers the first eleven months of FY 1988 for prime contract awards and nine months for subcontract awards, since subcontracting data is collected on a quarterly basis. The complete data for FY 1988 will be forwarded under separate cover when available.

Using the single data base prescribed in section 1207, i.e. total combined funds obligated for contracts and subcontracts awarded in the designated areas, the combined total of contracts and subcontracts awarded to SDBs was \$3.3 billion or three percent of total DoD contract awards to U.S. businesses. This reporting system is consistent with the Minority Business Development Agency (MBDA) report for SDB awards by the Federal Government.

Prime contract awards to HBCUs and MIs totalled \$2.9 million or .22% of the total prime contract awards to higher educational institutions. HBCUs received an additional \$13 million in grants for scholarships, fellowships, training, ROTC, studies and other areas that are not categorized as contracts or subcontracts.

IMPACT OF PROCEDURAL CHANGES

Prime Contracting Program

The six month report for FY 1988 described the substantive changes that were made to DoD contracting procedures to enhance SDB participation at the prime contracting level. The SDB set-aside program was intended to provide an opportunity for SDB firms to compete in a sheltered marketplace, and to broaden the overall participation of SDB firms in the DOD marketplace beyond firms that are participants in the SBA Section 8(a) Program. The ten percent evaluation preference was designed to afford SDBs a competitive price advantage in procurements where the SDB set-aside criteria cannot be met and the award is based upon price or price related factors. Also, added emphasis was placed on increasing awards under the 8(a) program.

A preliminary assessment of the impact of the SDB set-aside procedures on increasing awards to SDBs indicates that while awards under this program have increased, its application is limited due to restrictions placed thereon to preserve the levels of small business set-asides and 8(a) awards as required by P.L. 100-180, Section 806. Also, it is reported that for those requirements that may have the potential for a SDB set-aside, contracting officers are generally experiencing difficulty in identifying two or more SDBs that can meet the contract requirements.

The ten percent evaluation preference can only be used in unrestricted procurements where award is based on price or price related factors. Removal of the preference from small business set-asides was done to comply with the intent of P.L. 100-180, Section 806, which required DoD to not impact non-disadvantaged small businesses in the implementation of the five percent goal program. Currently, SDBs are receiving approximately six percent of the total small business set-aside dollars (Exhibit 1). This change has impacted the ability of DoD to make progress toward the goal through the small business set-aside program, which is a major opportunity market for SDBs. Reports indicate that SDBs have been relatively successful in receiving unrestricted awards as a result of the application of the ten percent preference.

Subcontracting Program

Procedural changes have been made to the subcontracting program for the purpose of increasing subcontract awards to SDBs. As a general rule, prime contractors are required to establish a minimum five percent SDB subcontracting goal in each prime contract that meets the dollar threshold for a subcontracting plan. If however, a five percent goal is not realistic, the contracting officer may seek the approval of a lower goal from two levels above.

Prime contractors are entitled to receive a monetary incentive for exceeding their five percent goal. Unfortunately, this approach does not take into account the inability of many prime contractors to

accomplish a level of five percent. With the DoD-wide SDB subcontracting percentage at 1.9%, many prime contractors indicate that there is no incentive for example, to get from two percent to five percent, and without such an incentive, the costs associated with exceeding the five percent goal far outweigh any benefit derived therefrom. Accordingly, consideration will be given to providing incentives for prime contractors to reach a five percent SDB participation rate as long as the established goal is realistic, challenging and attainable. DoD has been working closely with representatives from industry to develop this concept as well as other subcontracting initiatives.

HBCU/MI Program

The National Association for Equal Opportunity in Higher Education (NAFEO) prepared a study of the capabilities of HBCUs which was distributed to the Military Departments, Defense Agencies and prime contractors. This information was instrumental in establishing a competitive HBCU/MI set-aside program in the Army, Air Force, and Strategic Defense Initiative Organization. However, there remains a concern about the ability of HBCUs to compete for and manage DoD research requirements. Many HBCUs have been accustomed to receiving grants rather than competing for awards. This is primarily due to a lack of established infrastructure to respond to the competitive process. DoD will be further restricted in this program by a requirement in the Defense Authorization Act for Fiscal Year 1990 which requires DoD to compete all grants.

With regard to minority institutions, DoD is experiencing difficulty in obtaining an accurate list of minority institutions pursuant to the definition contained in Section 806 (d) of P.L. 100-180. This section references paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058) for a definition of minority institutions. The Department of Education was asked to provide a list of schools that met this criteria. They responded with a list containing over 800 institutions. The Department of Education indicated that while some of the institutions had an majority enrollment of minority students, eligibility under the above referenced provision of the Higher Education Act is not based upon minority enrollment and therefore many of the schools are not considered "minority institutions." This is extremely problematic for DoD because if the HBCU/MI program is made available to all 800 institutions, many of which are not "minority," opportunities under the set-aside will be diverted from HBCUs and bonafide minority institutions. DoD will seek clarification of the intent of P.L. 100-180 as it pertains to the definition of minority institutions.

Technical Assistance

Boone Young and Associates, Inc. has conducted thirteen conferences nationwide and has provided information to over three thousand SDB firms on how to do business with DoD. The success of this effort could not have been possible without the assistance from the

Congressional delegations, state and local Commerce Departments, local Chambers of Commerce, the Minority Business Development Centers and state and local minority business trade organizations. As a result of this concerted effort, approximately 82 manufacturing firms have been identified and will be recommended for follow-up technical assistance. It is still too early to determine whether the SDB firms that participated in the conferences have been able to match their capabilities with DoD contracting opportunities.

Tractell Inc. is currently performing a contract to identify areas where policy changes can be made to eliminate systemic impediments which may cause SDBs to not obtain a fair share of defense contracts. This study centers around data compiled from the DoD Management Information System on Defense Procurements to determine reasons why DoD contracts are not being awarded to SDBs.

A contract was awarded to MESA Services International to provide technical assistance to SDBs that have expressed an interest in initiating or expanding an effort to do business with DoD. The contract requires MESA to conduct facility surveys and reviews of some 128 SDBs located in or near 16 cities across the United States. To date, MESA has visited 13 cities and over 100 companies have been surveyed. The firms surveyed are manufacturers in the areas of sheet metal and plastics fabrication, printed circuit boards, wiring harness assembly, aircraft components, furniture, electronic parts and cranes. Additionally, MESA has provided marketing assistance to these SDB firms in terms of identifying DoD buying activities that may offer potential contracting opportunities.

As mentioned previously, the National Association of Equal Opportunity in Higher Education (NAFEO) has developed a capability assessment of approximately 66 HBCUs. This information was disseminated throughout the DoD contracting community. In addition to the development of the capability study, NAFEO conducted technical assistance seminars for HBCUs on proposal preparation, how to do business with DoD, and developing alliances with prime contractors, major research universities and minority businesses.

The NAFEO grant has been extended for another year. A major aspect of this year's effort is to establish a model contracting program to enable HBCUs to compete for and administer DoD contracts. In addition, NAFEO will be responsible for compiling a document on program opportunities in DoD for higher education institutions, establishing a satellite network for communication of DoD opportunities to HBCUs, and scanning the Commerce Business Daily and transmitting potential contracting opportunities to HBCUs through the satellite network.

IMPEDIMENTS TO ACCOMPLISHMENT OF THE GOAL

The following impacted DoD's ability to achieve a five percent goal during FY 1988:

- 1) Actions taken to maintain the level of small business set-asides, i.e. restrictions on the SDB set-aside program and removal of the ten percent evaluation preference on small business set-asides.
- 2) The Deputy Secretary of Defense placed a freeze on contract awards in certain areas which was necessitated by outlay problems. Many areas affected by the freeze were those in which SDBs participated.
- 3) The purchase of several major weapons systems which added to the prime contract base for purposes of calculating the goal, but did not provide any prime contracting opportunities for SDBs.
- 4) Despite the existence of the SDB set-aside program and the ten percent evaluation preference program, DoD has not accomplished a significant increase in contract awards to SDBs and HBCUs. This raises some concern about the effectiveness of the procedures intended to increase awards to these entities. Accordingly, DoD will conduct an in-house evaluation to determine where the problems are and the impact of the new procedures on the accomplishment of the goal. Also, the Tractell study is expected to identify the barriers to SDB participation in DoD contracting programs.
- 5) There is concern about the financial capacity of the SDB community to manage a quantum increase in DoD awards, particularly in the manufacturing areas. A preliminary assessment by the DoD technical assistance contractor indicates that SDB manufacturing firms do exist that have the potential for growth into DoD related areas, however, many of them lack adequate capitalization. DoD recommends the initiation of a collaborative effort between the minority business community and the financial community to address the legitimate needs of minority businesses to finance increased DoD opportunities.
- 6) Prime contractors contend that they are experiencing difficulties in meeting a five percent SDB subcontracting goal due to the inability to identify SDB firms possessing the requisite technical qualifications to perform their subcontracts. DoD is encouraging prime contractors to establish a data bank of existing SDB sources that can be accessed by other prime contractors. Additionally, DoD will compile a list of SDB sources currently doing business with DoD and share these sources with industry. Perhaps, an effort should be undertaken by an objective entity such as the Government Accounting Office (GAO) or the MBDA to ascertain the overall capacity of the SDB community to perform in DoD related areas.

PROGRESS TOWARDS THE FIVE PERCENT GOAL

A report on progress towards the five percent goal during the first eleven months of FY 88 is reflected in the chart provided at Exhibit 2. A summary follows:

- Prime contracts valued at \$110.2 billion were awarded to U.S. business firms. Of this total, \$2.5 billion was awarded to SDBs in prime contracts and \$800 million was awarded to SDBs in subcontracts. These awards represent three percent of the total awards to U.S. business firms, compared with the mandated goal of five percent. This percent exceeds the 2.9% accomplishment for the same period of time in FY 1987 (Exhibit 2).

- A total of \$334 million was established as the fair market price for awards to SDBs. Of this amount, the SDB award value totaled \$314 million. This figure represents a 5.9% payment below fair market price to SDBs.

- The DoD awards over \$25,000 by ethnic group are provided in Exhibit 3.

- Prime contracts valued at \$1.3 billion were awarded to Higher Educational Institutions (HEI). Of this total, \$2.9 million was awarded to HBCUs and MIs (Exhibit 3). These awards represent .22% of the total awards to HEIs (Exhibit 4). Additionally, HBCUs/MIs received an additional \$13 million in grants for scholarships, fellowships, training, ROTC, studies and other areas not reported as contracts.

- A DoD fuels contract awarded to a SDB at \$43 million was terminated for default. There were no other reported instances where SDBs, HBCUs, and MIs failed to perform the contract.

- The removal of the ten percent preference from small business set-aside has to a great extent mitigated the impact of the five percent goal program on non-disadvantaged small businesses. There is the potential for an impact on these firms in situations where a small business concern is the otherwise low bidder on an unrestricted procurement, and is displaced by virtue of the application of the ten percent preference.

Conclusion

On September 22, 1988, the Under Secretary of Defense for Acquisition and members of Aerospace Industry met with members of the House Armed Services Acquisition Panel and members of the Congressional Black and Hispanic Caucuses. The purpose of the meeting was to discuss the DoD five percent goal program. At the conclusion of the meeting, the Under Secretary was asked to submit, within 30 days, a plan to make progress toward the goal.

Meetings were held between the Under Secretary of Defense for Acquisition and the Service Acquisition Executives in order to get the highest level of support for the development of the plan. Prior to this meeting, the Under Secretary met with the Chief Executive Officers of the following corporations in order to get their personal involvement and support to make significant increases in their subcontract awards to SDBs: General Dynamics, Northrop, Martin Marietta, General Electric, Lockheed, Hughes Aircraft, Texas Instruments and LTV.

The plan reflects the Department's commitment to the objectives of the goal by proposing aggressive approaches to meet the intent of Public Laws 99-661 and 100-180. A copy of the plan as well as a summary thereof is at Exhibit 5. It must be noted however, that notwithstanding any prospective efforts to increase contracting opportunities for SDBs and HBCUs, in all probability the impediments cited herein will continue to encumber the Department's ability to accomplish the goal.

SMALL DISADVANTAGED BUSINESS PARTICIPATION
 IN THE SMALL BUSINESS SET-ASIDE PROGRAM
 October 1, 1987 -- August 31, 1988
 (Dollars in Millions)

DEPT/AGENCY	TOTAL AWARDS	SBSA AWARDS		SBSA AWARDS TO SDBs	% of TOTAL	% of SBSA
ARMY*	\$25,268	\$3,312	13.1%	\$229.0	0.9%	6.9%
NAVY	\$43,544	\$3,157	7.3%	\$146.4	0.3%	4.6%
AIR FORCE	\$33,734	\$2,130	6.3%	\$140.0	0.4%	6.6%
DLA	\$7,550	\$1,833	24.3%	\$107.3	1.4%	5.9%
TOTAL DOD	\$110,096	\$10,432	9.5%	\$622.8	0.6%	

* Army data includes awards from the Corps of Engineers and Other Defense Agencies.

SMALL DISADVANTAGED BUSINESS AWARDS
ELEVEN MONTHS COMPARATIVE PERFORMANCE
October 1, 1987 -- August 31, 1988

		TOTAL AWARDS	8A	DIRECT	SET- ASIDE	SUB- CONTRACT*	TOTAL	%
ARMY	FY 1987	\$26,327	\$705.4	\$274.0	\$0.0	\$51.2	\$1,030.6	3.9%
	FY 1988	\$23,501	\$580.3	\$300.1	\$33.2	\$41.5	\$955.2	4.1%
NAVY	FY 1987	\$39,206	\$441.8	\$223.8	\$0.0	\$101.7	\$767.3	2.0%
	FY 1988	\$43,544	\$484.6	\$237.4	\$9.7	\$118.6	\$850.3	2.0%
AIR FORCE	FY 1987	\$34,839	\$387.1	\$147.6	\$0.0	\$201.0	\$735.7	2.1%
	FY 1988	\$33,734	\$379.9	\$189.1	\$15.8	\$168.4	\$753.1	2.2%
DLA	FY 1987	\$7,131	\$80.2	\$191.5	\$0.0	\$361.7	\$633.5	8.9%
	FY 1988	\$7,550	\$45.9	\$160.1	\$16.1	\$471.5	\$693.7	9.2%
ODA	FY 1987	\$2,750	\$31.2	\$9.5	\$0.0		\$40.7	1.5%
	FY 1988	\$1,767	\$35.1	\$15.3	\$0.0		\$50.5	2.9%
DOD	FY 1987	\$110,253	\$1,645.7	\$846.5	\$0.0	\$715.6	\$3,207.8	2.9%
	FY 1988	\$110,096	\$1,525.8	\$902.1	\$74.8	\$800.0	\$3,302.8	3.0%

\$ = Millions

* = Subcontract award data is only available for the first 9 months of FY 1988 (through June 88).

EXHIBIT #3

DOD CONTRACT AWARDS TO SDBs BY ETHNIC GROUP
FIRST 11 MONTHS OF FY 1988
AWARDS OVER \$25,000
(Dollars in Millions)

	Not Coded	Asian Indian Americans	Asian Pacific Americans	Black Americans	Hispanic Americans	Native Americans	Others	TOTAL
ARMY	\$505.5	\$20.7	\$41.5	\$146.8	\$70.3	\$40.4	\$29.8	\$855.1
NAVY	\$529.4	\$20.6	\$21.0	\$62.7	\$39.5	\$7.3	\$13.0	\$693.5
AIR FORCE	\$357.4	\$29.8	\$16.8	\$49.7	\$48.7	\$24.3	\$7.2	\$533.9
DLA	\$0.0	\$6.2	\$2.7	\$1.1	\$99.7	\$12.1	\$10.5	\$187.2
ODA	\$31.6	\$0.8	\$6.1	\$5.4	\$2.0	\$0.1	\$0.7	\$46.8
TOTAL	\$1,423.9	\$78.0	\$88.1	\$326.7	\$260.2	\$84.3	\$61.2	\$2,316.5

PERCENTAGE OF DOD DOLLARS AWARDS TO SDB's BY ETHNIC GROUP
FIRST 11 MONTHS OF FY 1988
AWARDS OVER \$25,000

	Not Coded	Asian Indian Americans	Asian Pacific Americans	Black Americans	Hispanic Americans	Native Americans	Others	TOTAL
ARMY	21.8%	0.9%	1.8%	6.3%	3.0%	1.7%	1.3%	36.9%
NAVY	22.9%	0.9%	0.9%	2.7%	1.7%	0.3%	0.6%	30.0%
AIR FORCE	15.4%	1.3%	0.7%	2.1%	2.1%	1.0%	0.3%	23.9%
DLA	0.0%	0.3%	0.1%	2.4%	4.3%	0.5%	0.5%	8.1%
ODA	1.4%	0.0%	0.3%	0.2%	0.1%	0.0%	0.0%	2.0%
TOTAL	61.5%	3.4%	3.8%	13.8%	11.2%	3.6%	2.6%	100.0%

AWARDS TO HBCU/MI's AS COMPARED TO
AWARDS TO HIGHER EDUCATION INSTITUTIONS
October 1, 1987 -- August 31, 1988
(Dollars in Thousands)

DEPT/AGENCY	HEI AWARDS	HBCU/MI AWARDS	%
ARMY*	\$249,984	\$1,496	0.60%
NAVY	\$543,813	\$1,098	0.20%
AIR FORCE	\$571,729	\$392	0.07%
DLA	\$4,140	\$0	0.00%
TOTAL	\$1,369,6**	\$2,986	0.22%

* Army data includes awards made by the Corps of Engineers
and Other Defense Agencies.



ACQUISITION

THE UNDER SECRETARY OF DEFENSE

WASHINGTON, DC 20301

25 OCT 1988

Honorable Nicholas Mavroules
House of Representatives
Washington, DC 20515

Dear Congressman:

Pursuant to your request, enclosed is the Department of Defense (DoD) plan to make progress toward the five percent goal established by Public Law 99-661, section 1207. We have taken the intervening time to work out aggressive approaches to meet the intent of P.L. 99-661. I have met with the Chief Executive Officers of the following corporations in order to get their personal involvement and support to make significant increases in their subcontract awards to small disadvantaged businesses: General Dynamics, Northrop, Martin Marietta, General Electric, Lockheed, Hughes Aircraft, Texas Instruments and LTV.

Additionally, I convened two meetings with the Service Acquisition Executives in order to get the highest level of support within DoD in the development of our enclosed plan. As a framework, we used the recommendations contained in the September 22, 1988 letter to me from the members of the Black and Hispanic Caucuses. Tab A represents the DoD response to the Congressional proposals and Tab B represents additional actions that DoD will take in order to progress toward the five percent goal. Any actions which require changes to the acquisition regulations will be published for public comment.

Last week, I met with Don Fuqua and several other representatives of the Aerospace Industry Association. They will be submitting a separate plan. However, DoD and industry will engage in a continuous effort to develop and implement small disadvantaged business subcontracting initiatives.

The Deputy Secretary of Defense was briefed on the plan on October 24, 1988. Please be assured that DoD is committed to the objectives of the five percent goal. We are willing to discuss the plan or any aspect of our program at your convenience. A similar letter is being sent to members of the Black and Hispanic Caucuses.

Sincerely,

A handwritten signature, likely of the Under Secretary of Defense, is written in dark ink. The signature is stylized and appears to read "A. C. Scott".

Enclosures

The following are a summary of the Congressional recommendations contained in the September 22, 1988 letter to the Under Secretary of Defense, and the Department of Defense (DoD) response thereto.

A. Prime Contract Opportunities

(1) Require that large prime contractor offerors on major system acquisitions (as defined pursuant to 41 U.S.C. 403 (10) (B)) include within their proposals -- to be considered responsive to the solicitation for offers -- evidence of joint venture or teaming agreements with small disadvantaged businesses (SDBs) that will be five percent of the total anticipated costs of the acquisition.

DoD Response: In lieu of making the degree of joint ventures or teaming an element of responsiveness, DoD proposes to make the extent to which SDB participation is specifically identified in the proposal an evaluation factor in source selection for major systems, whether it is a joint venture, teaming arrangement or subcontracting.

(2) Utilize the Leader Company contracting method authorized by FAR 17.4 in the manufacture of items when: (a) there is a recurring need for such items; (b) the items will be purchased in substantial quantities; (c) there are no known SDB producers for the items; and (d) additional sources of supply would further competition.

DoD Response: DoD will take action to modify the FAR/DFARS to specify consideration of SDB producers for leader follower acquisition arrangements.

(3) Promote joint ventures and teaming agreements between SDBs and large disadvantaged businesses.

DoD Response: DoD proposes to explore testing a concept to provide a ten percent evaluation preference on the portion of the joint venture or teaming arrangement that will be performed by a SDB.

B. Subcontracting Opportunities

(1) Subcontracting goals should be considered a "deliverable" under the contract. Using both the incentive authority provided for by section 8(d) and the ten percent differential authority under section 1207, the activity should be authorized to "purchase" a higher level of SDB performance.

DoD Response: An alternative approach is to provide incentives to prime contractors to encourage them to increase subcontract awards to SDBs. DoD will maximize the use of incentives to accomplish this objective.

(2) Provision should be made to compensate the government in the event that the goal is not achieved through the fault of the prime contractor. Damages, a reduction in contract price, or, in appropriate situations, contract default should be available remedies that are specifically referenced in the contract and freely used when the situation warrants.

DoD Response: DoD will emphasize the use of remedies currently available in the FAR for non compliance with the subcontracting plan, i.e., cure and show cause notices and default procedures. Also, DoD will test a procedure under which progress payments may be adjusted for non achievement of SDB goals and for exceeding goals.

(3) SBA and large prime contractors should be encouraged to pool financial and technical resources to jointly qualify SDBs as potential subcontractors to be participating primes.

DoD Response: DoD will encourage prime contractors to provide financial and technical assistance to SDBs.

(4) DoD should allow prime contractors to restrict competition for subcontract awards to SDBs provided that awards to SDBs would not exceed fair market prices by more than ten percent.

DoD Response: Prime contractors are not precluded from restricting competition to SDBs. DoD will clarify this if necessary. Prime contractors will not be authorized to pay a ten percent differential to SDBs. Appropriate procedures will be established to encourage prime contractors to increase SDB awards through incentives.

C. Contract Financing Techniques

(1) The customary progress payment rate for SDBs should be set at 95 percent (see FAR Subpart 32.5).

DoD Response: DoD will take action to increase the progress payment rate for SDBs to 90%. Also, we propose to make progress payments available to SDBs for contracts of \$50,000 or more. The current threshold is \$100,000.

(2) Advance payments pursuant to FAR 32.4 should be routinely made available on every SDB set-aside having an anticipated value of at least \$5 million.

DoD Response: DoD will encourage the use of advance payments if the criteria in FAR 32.4 are met. Also, we will review the enabling statute and the advance payment procedures to determine if substantial changes can be made to permit increased use by SDBs.

(3) The ten percent price differential should be applied to contracts awarded pursuant to section 8(a) of the Small Business Act.

DoD Response: We do not support this position because 8(a) firms are already receiving preferential treatment in the negotiation of 8(a) awards.

(4) An expedited payment system should be available to SDBs whereby the average time for payment of an invoice is reduced to 10 work days.

DoD Response: We are unable to commit to 10 days for the payment of invoices. However, DoD supports a system to expedite payment to SDBs and will develop procedures to accomplish this objective.

(5) The DoD should utilize fully its authority under section 301 of the Defense Production Act and subpart 32.3 of the FAR to provide loan guarantees for defense production to SDBs. This authority should be restricted to manufacturing activities where SDB participation rates are relatively slight.

DoD Response: We will take this under advisement. However, Section 301 Authority is available only to the extent provided in an appropriation act.

D. Program Management and Administration

(1) Relevant acquisition personnel should have a critical performance standard specifically and solely devoted to furthering the purposes of section 1207.

DoD Response: Actions devoted to furthering the purposes of section 1207 will be made a rated performance standard for the following individuals:

- a. Acquisition Policy Executives
- b. Commanders of Contracting Activities

- c. Contracting Officers
- d. Program Managers and Item Managers
- e. Engineers and Technical Support Personnel
- f. Small Business Directors and Specialists

(2) Relevant acquisition personnel should be required to undergo mandatory training on available techniques to achieve the five percent goal.

DoD Response: DoD is taking action to develop a centralized mandatory training program for all acquisition personnel.

(3) Major Commands should be required to hold monthly briefings for SDBs on planned acquisitions and engage in other appropriate outreach activity.

DoD Response: Where appropriate, major contracting activities will be required to hold quarterly briefings for SDBs on planned acquisitions and engage in other outreach activity such as providing information about specific programs, services and supply class items for SDB participation and synopses in "sources sought" notices.

E. Program Monitoring and Surveillance

(1) The OSDDBU in each Service should establish a surveillance team that will conduct unannounced audits on major buying activities.

DoD Response: Each OSDBU Director for the Services and DLA will be required to conduct a minimum of six announced program reviews per year. DoD OSDBU will conduct an appropriate amount as well.

(2) Audit reports prepared pursuant to (1) should require the Command to prepare and implement a remedial plan to correct noted deficiencies. Plans should be subject to prior approval by the OSDBU.

DoD Response: Reports prepared as a result of surveillance reviews will be forwarded to the Activity with a request for a plan to overcome any noted deficiencies."

Additional Actions Which DoD
Will Take in Order to Progress
Toward the Five Percent Goal

A. Prime Contract Opportunities

(1) Primary level field activities within DLA will set aside a requirement for historically Black colleges and universities (HBCU). The requirement will be to locate SDBs not currently on DLA source lists, review the capabilities and determine which, if any, of a specified list of items can be provided by the SDBs. The deliverable is a list of SDB firms, their capabilities and the specific items they can provide. These firms will be added to the bidders mailing lists through the completion of a SF 129.

(2) DoD will require that all SBA search letters be responded to within 30 days by the contracting activity and contracting activities must provide 8(a) firms an opportunity to give technical presentations before denying 8(a) requests. To the greatest extent possible, this should be done during the acquisition planning stage to reduce procurement lead time.

(3) DoD will take appropriate action to eliminate the \$85,000 cap on A&E requirements for SDB set-asides.

(4) DoD will require the placement of three Procurement Technical Assistance Centers at HBCUs to do outreach and provide technical assistance as defined by section 1207 to SDBs.

(5) DoD will modify the exemption for the Trade Agreement Act to require that the ten percent preference be applied in such a way as to not displace a foreign offeror. In addition a foreign offeror will not receive an award by virtue of the preference. Currently, any requirement that meets the dollar threshold and is subject to the Trade Agreement Act is exempt from the application of the ten percent evaluation preference.

(6) DoD will maximize the use of the total SDB set aside "sources sought" synopsis notice pursuant to DFARS 5.207 to identify SDB sources.

(7) Once a requirement has been acquired successfully on the basis of a SDB set-aside, all future requirements for that particular product or service not subject to simplified small purchase procedures shall be acquired on the basis of a repetitive SDB set-aside. This procedure will be followed unless the contracting officer determines that there is not a reasonable expectation that (1) offers will be obtained from at least two responsible SDB concerns offering the products of different SDB or small business concerns and (2) award will be made within ten percent of fair market price.

(8) DoD will request an appropriation of \$15 million to fund contracts to provide technical assistance to section 1207 entities.

(9) DoD will work with prime contractors to compile a list of SDB sources for use by DoD and other prime contractors. We will work with SBA to maximize the use of the PASS system. Prime contractors will be requested to encourage their SDB subcontractors to apply to the PASS system if they have received a purchase order within the previous two years.

(10) DoD will re-emphasize the significance of DEPSECDEF policy memorandum of 1 June 82 on consolidation of requirements and small businesses and SDBs.

(11) DoD will place renewed emphasis on breaking out requirements to provide increased opportunities to SDBs.

B. Subcontracting Opportunities

(1) DoD currently requires that an incentive fee clause be included in all negotiated contracts which require the prime contractor to furnish a subcontracting plan. The clause provides an incentive fee to a prime contractor who awards more than five percent of total subcontracts to SDB concerns. This clause will be revised to permit the payment of an incentive fee to contractors who exceed the established SDB goal.

(2) DoD will allow contracting officers to include an award fee provision in any negotiated contract of more than \$10,000,000 as an

alternative to the incentive fee provision discussed above. Use of an award fee provision will enable the contracting officer to motivate and reward a contractor who exceeded the established SDB goal. Use of an award fee provision allows the contracting officer to consider the quality and quantity of contractor effort put forth to meet SDB goals.

(3) Prime contractors may need to provide SDB concerns with special technical or management assistance in order to ensure acceptable performance of subcontracts. The Department will clarify the allowability of these costs.

(4) In certain situations, DoD will allow contracting officers to establish separate contract line items identifying the prime contractor's responsibility to provide certain technical assistance authorized by section 1207 to SDB concerns as subcontractors. The line item would be separately priced and would include the prime contractor's cost to provide technical assistance to the SDB.

(5) DoD will provide higher progress payment rates to contractors who exceed SDB goals that have been established on a plant or division-wide basis, and will provide lower progress payment rates to contractors who fail to meet these goals. Before proposing regulatory coverage on this approach, each of the Services will test the concept at a number of contractor locations.

DoD Will Take the Following Action to Progress
Toward the 5% Goal

- o Consider the extent of SDB participation as an evaluation factor in source selection for major systems.
- o Specify consideration of SDB producers for leader-follower acquisition arrangements.
- o Explore testing a concept to promote joint ventures and teaming agreements between SDBs and large disadvantaged businesses.
- o Increase emphasis on the use of remedies currently available in the FAR for non-compliance with the subcontracting plan law, and shut down notices and default procedures.
- o Test a procedure under which progress payments may be adjusted for non-achievement of SDB goals and for exceeding goals. Higher progress payments will be provided to primes that exceed stated goals and lower progress payments will be provided to primes that fail to meet these goals.
- o Encourage prime contractors to provide financial and technical assistance to SDBs. In certain situations, DoD will allow contracting officers to establish separate contract line items identifying the prime contractor's responsibility to provide technical assistance to SDBs. Also DoD will clarify the allowability of these costs in situations where there is not a separately priced line item.
- o Authorize the use of an incentive fee or award fee for prime contractors who exceed established SDB goals. The award fee provision allows the contracting officer to consider the quality and quantity of the effort put forth to meet SDB goals.
- o Clarify the authority of prime contractors to use less than full and open competition to increase awards to SDBs.
- o Increase the progress payment rate for SDBs to 90%. Also we propose to make progress payments available to SDBs for contracts of \$50,000 or more. The current threshold is \$100,000.
- o Review the enabling statute and the advance payment procedures to determine if substantial changes can be made to permit increased use by SDBs.
- o Develop procedures to expedite payment to SDBs.

- o Make actions devoted to furthering the purpose of the 5% goal a rated performance standard for relevant acquisition personnel.
- o Develop a centralized mandatory training program for all acquisition personnel on the section 1207 procedures.
- o Require, where appropriate, major contracting activities to hold quarterly briefings for SDBs on planned acquisitions and engaged in other outreach activity.
- o Require each OSDDB Director to conduct a minimum of six program reviews per year.
- o Enhance opportunities under the 8(a) program.
- o Eliminate the \$10,000 cap on architectural and engineering requirements for SDB set asides.
- o Increase outreach activity to identify SDBs. One aspect to the accomplishment of this objective will be to place three Procurement Technical Assistance Centers at historically Black colleges and universities (HTCUs) to provide outreach and technical assistance to SDBs.
- o Establish repetitive SDB set aside procedures.
- o Request an appropriation of \$15 million to fund contracts to provide technical assistance to SDBs and HTCs.
- o Work with prime contractors to establish a data base of qualified SDB sources.
- o Reemphasize the DoD policy on consolidation of requirements and small businesses and SDBs.
- o Place renewed emphasis on breaking out requirements to provide increased opportunities to SDBs.



ACQUISITION

THE UNDER SECRETARY OF DEFENSE

WASHINGTON, DC 20301

Honorable Sam Nunn
Chairman, Committee on
Armed Services
United States Senate
Washington, DC 20510

Dear Senator:

In compliance with Section 1207(a) of the FY 1987 National Defense Authorization Act, Public Law 99-661, a report for FY 1988 on the Department of Defense's (DoD) progress toward the achievement of the five percent goal is respectfully submitted. As an attachment thereto we are submitting a copy of the DoD plan to make progress toward the goal, as requested by Congressman Nicholas Mavroules.

Sincerely,

Attachment